

Criminal Law Symposium



Jury Management

Faculty

Hon. William J. Giovan
3rd Circuit Court
Detroit, Michigan
(313) 224-5261
william.giovan@3rdcc.org



Michigan Judicial Institute
Michigan Hall of Justice
P.O. Box 30205
Lansing, Michigan 48909
(517) 373-7171

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE, MICHIGAN

_____ v _____

Case No. _____

IT IS HEREBY ORDERED that the following procedures shall apply in the trial of the above action:

1. **MOTIONS IN LIMINE.** Motions in limine should be presented on the day of trial, with sufficient notice to the opposite party. Such motions may be filed in advance of trial if there is reason to do so.

2. **VOIR DIRE.** The court will ask all questions of general application. If the court's questioning of an individual juror on a specific topic should leave a party unsatisfied, that attorney may directly ask additional questions of that juror on that topic.

The purpose of this arrangement is to avoid questioning by counsel designed primarily to argue the case, to commit jurors to a particular view of the case, to make an opening statement, to gain rapport with jurors, and the like, and the privilege of questioning particular jurors should not be used for those objectives.

3. **EXHIBITS.** The parties are encouraged to consult about what exhibits will be admitted without objection.

Exhibits are marked during the trial in numerical sequence without regard to the party offering them. For example, plaintiff's exhibit 5 might be followed by defendant's exhibit 6, even if it is the first of defendant's exhibits.

Before questioning a witness about a proposed exhibit, have it marked and refer to it by exhibit number in the first reference to it. For example, "I hand (show) you proposed exhibit 1 and ask you"

4. **DEPOSITIONS.** A party intending to introduce a deposition must advise the opponent in sufficient time that counsel have the opportunity to discuss proposed objections outside of trial hours and before the deposition is offered. The court will rule on objections that do not result in agreement.

5. **OBJECTIONS.** Except where specifically necessary, state only the legal ground for an objection. Objections designed primarily to make a speech, to display righteous indignation, to disparage the opponent, to get non-record facts before the jury, and the like, are particularly inappropriate.

Objections are addressed to the Court, not opposing counsel. Otherwise, an adverse ruling is nearly assured.

6. **EXAMINATION OF WITNESSES.** Do not ask witnesses to read out loud from exhibits that have already been admitted. If it is necessary to read such material aloud as a foundation for additional questions or for any other reason, counsel should do it and go on with the questioning.

Similarly, do not waste time by asking witnesses to make mathematical calculations where the answer is indisputable. For example, if it is necessary at that time to know the sum of a column of figures or the number of days between March 19 and February 23, state the number and go on with the questioning.

Do not make arguments in the guise of asking questions. Counsel should not ask a question which does not elicit testimony but which instead merely asks the witness to parrot an inference or conclusion that the examiner draws from the evidence or from general experience.

Remember that every examination after the cross-examination is limited to the scope of the prior examination. Valid objections to repetitious or extraneous questioning will be sustained.

It is not necessary to ask the court for permission to approach a witness.

→ 7. **TRIAL DEPOSITIONS.** A deposition taken for the presentation of evidence at trial may not exceed 1-1/2 hours in length without the prior approval of the court.

8. **RECESSES.** Recesses are approximately 15 minutes in length, except where other court business requires a longer interval. The parties should not rely on court personnel to page them when sessions resume. In the case of prolonged absences the court may proceed with the parties or counsel who are present.

9. **JURY INSTRUCTIONS.** The heart of any jury instruction is the enumeration of the elements of the cause of action and any applicable affirmative defense. Where these are not supplied by the standard jury instructions, a request to charge should contain, at a minimum, a proposed impartial instruction on the elements of the cause of action.

Requests for standard jury instructions shall be identified by the number and name of the instruction. (Do not reproduce the text of the instruction.)

Where there are multiple pages of requests to charge, number the pages.

10. **STANDBY.** If the trial cannot start at the time assigned because another case is in progress, the action will remain subject to assignment for trial on one hour notice by telephone, but not later than 3:00 p.m. on Thursday of that week. If the action is not assigned by Thursday, at the option of either party the court will assign another trial date. MCR 2.503(E)(2).

Issued: _____

William J. Giovan, Circuit Judge